

Request for Proposal for Telephone System Upgrade Solutions for Avaya CS1000 Platform

Submitted by
James Frank
Director, Information Technology
City of Berwyn

Date

June 6, 2013

Inquiries Should Be Directed To:	Proposals Should Be Directed To:
James Frank Director, Information Technology City of Berwyn 6700 W. 26 th St Berwyn, IL 60402 Phone: 708-788-2660 x3270 Fax: 708-749-6591 Email: jfrank@ci.berwyn.il.us	Thomas J. Pavlik City Clerk City of Berwyn 6700 W. 26 th St. Berwyn, IL 60402 Phone: 708-788-2660 x3230 Fax: 708-749-6591

General Information

The City of Berwyn is located just 8 miles west of Chicago's loop and offers easy accessibility to downtown Chicago and the surrounding suburbs via the Eisenhower (I-290) and the Stevenson (I-55) Expressways. Public transportation is also available via the CTA's blue line "el" or the Metra BNSF line. The range of transportation options make commuting to work or planning a trip to attend one of Berwyn's bustling business corridors or community events a snap.

Also known as Beautiful Berwyn and the City of Homes, Berwyn has an outstanding assortment of high quality homes in distinct architectural styles, including bungalows, Victorians, American four-squares, Tudors, and farm-house. Born in a rich history, Berwyn has the most significant collection of Chicago-style bungalows in the nation today. Be sure to save the date for the Berwyn Historical Society's annual Historic Berwyn Bungalow Tour in September.

Berwyn is home to the prestigious MacNeal Hospital, two thriving park districts, a municipal recreation department, a YMCA, the 16th Street Theater, FitzGerald's Nightclub, a growing population of local artists, diverse food and beverage establishments and nightlife options, and plenty of family-friendly events and programming.

Company Background

Berwyn is a city in Cook County, Illinois, co-existent with Berwyn Township, which was formed in 1908 after breaking off from Cicero Township. As of the 2010 census, the city had a total population of 56,657.

As of the census of 2010, there were 56,657 people and 18,910 households in the city. The racial makeup of the city was 60.48% White, 6.40% African American, 0.59% Native American, 2.52% Asian, 0.03% Pacific Islander, 26.61% some other race, and 3.37% from two or more races. Hispanics and Latinos of any race made up 59.44% of the population. The population density was 14,527.4 inhabitants per square mile (5,609.6/km²). Berwyn also has the highest population density (2010) of any township in Illinois. It and Cicero are the only townships in Illinois that have a higher population density than the city of Chicago.

The top five non-Hispanic ancestries reported in Berwyn as of the 2009-2011 American Community Survey were Italian (8.0%), German (7.8%), Irish (7.3%), and Polish (7.1%).

As of the 2010 census, there were 18,910 households, out of which 41.9% had children under the age of 18 living with them, 45.7% were headed by married couples living together, 16.5% had a female householder with no husband present, and 30.3% were non-families. 24.6% of all households were made up of individuals, and 8.2% were someone living alone who was 65 years of age or older. The average household size was 2.99, and the average family size was 3.62.

The age distribution was 27.8% under the age of 18, 10.0% from 18 to 24, 30.5% from 25 to 44, 22.4% from 45 to 64, and 9.4% who were 65 years of age or older. The median age was 32.9

years. For every 100 females there were 98.1 males. For every 100 females age 18 and over, there were 95.1 males.

For the period 2009-11, the estimated median annual income for a household in the city was \$50,388, and the median income for a family was \$55,946. Male full-time workers had a median income of \$42,099 versus \$34,989 for females. The per capita income for the city was \$20,143. About 12.5% of families and 14.5% of the population were below the poverty line, including 19.9% of those under age 18 and 11.8% of those age 65 or over,

Purpose

The purpose of this project is to provide upgrade solutions and paths available to the City of Berwyn with respect to upgrading its existing Avaya/Nortel CS1000 telephone system in use in and around the City of Berwyn. The City is not prepared to fully replace the Avaya/Nortel CS1000 system at this time, but more upgrade it within the Avaya family of products, all designed to provide a clear roadmap for continued use of this system and its equipment moving into the future.

The selected Vendor will be our primary source for the following:

- Business telephone system hardware, software and voice mail equipment
- Installation and configuration services for this equipment
- Training of users and administrators
- Maintenance of purchased and installed equipment and software
- Upgrades to the installed systems as necessary

Written Questions and Inquiries

James Frank

Director, Information Technology

City of Berwyn

jfrank@ci.berwyn.il.us

Closing Submission Date

Proposals must be submitted and received no later than August 1th 2013.

Condition of Proposal

All costs incurred in the preparation of a proposal responding to this RFP will be the responsibility of the Vendor. During the evaluation process, City of Berwyn reserves the right to request additional information or clarification from the Vendor to allow for correction of errors and omissions.

Instruction to Prospective Contractors

a. Proposal Instructions

Submit 1 copies of the response. Each prepared response shall be submitted in a sealed envelope. The envelope must be addressed to the following and must include the label as indicated below.

Name: Thomas J. Pavlik
City Clerk
City of Berwyn
6700 W. 26th St.
Berwyn, IL 60402

It is important that the Vendor's proposal be submitted and clearly marked in the lower left-hand corner with the following information:

City of Berwyn - Proposal
For phone system upgrades
Due: August 1 th 2013

It is the responsibility of the Vendor to ensure that the proposal is received by the date and time specified above. Late proposals will not be considered.

1. Contract Overview

The proposal should include a contract for all proposed equipment and services. If the Vendor does not wish to submit an actual contract with the proposal, due to different alternatives proposed and pending choices from those alternatives, a sample contract should be submitted with the proposal.

2. Contract Term and Cost of Ownership

All equipment, software, licensing and maintenance pricing and negotiations or variations must be clearly stated. All pricing and negotiations must include both a five (5) and seven (7) year analysis of the Total Cost of Ownership.

3. Right to Reject

City of Berwyn reserves the right to reject any and all proposals received in response to the RFP. A contract for the accepted proposal will be based upon the factors described in this RFP.

Evaluation Criteria

All responses to this RFP will be evaluated based on, but not limited to, the following factors:

- Cost
- Functionality of standard equipment and features to meet our specific needs
- Availability of additional capabilities to add as needed
- System growth and expansion
- Ability to save communications costs by using Internet Technologies
- Ease of use
- Product quality, reliability, and warranty plan
- Vendor qualifications
- Overall reputation in the industry
- Experience and expertise with the product being offered
- Service and support resources, including training by vendor for the installation and maintenance
- Certified vendor relationship with product manufacturer
- References where similar systems have been installed

Schedule:

1.) The Owner is simultaneously developing a remote Disaster Recovery Data Center (the “RDC”) in Berwyn, IL to serve as their primary data center and may house some of the products for the systems included in this RFP at that location

2.) Some of the capitalized terms used in this RFP are industry standard terms. Further delineation of these terms can be provided by Owner to Contractor if needed upon request.

3.) This RFP invites Contractor to provide its proposal for a VoIP (Voice over Internet Protocol) telephone system upgrade, data network, & integration and installation services located at the Owner’s facility (the “Project”) as well as the Owners DR facility as specifically described herein. The Owner is soliciting pricing via this RFP for a turnkey solution (sourcing, installation, integration, configuration and) of all the system components, described herein and in the attached documents.

4.) The new systems must support current and anticipated communications needs, be reasonably scalable, minimize inefficiencies, reduce the risk of potential service disruptions, and reasonably protect the Owner from the expense of major system hardware upgrades for a period of 7 years.

5.) The information provided in this document is intended to state the Owner’s required objectives in terms of system capabilities, operational functionality, features and/or control.

6.) All forms shall be completed thoroughly and according to the instructions of this RFP. An incomplete or uncoordinated proposal can only be judged as indicative of the Contractor’s capability for an overall professional solution.

7.) Manufacturer Exclusivity: No Contractor may register an exclusive relationship between themselves and the Owner on an ongoing basis with a technology manufacturer selected for this Project. The Owner reserves the right to source and procure equipment, software and services from the vendor of their choosing upon completion of this project.

B. Contractor is principally responsible for all design, integration, field installation and testing services required in connection with the implementation of the work required to complete the Project (collectively hereunder, the "Services" which shall include all Basic Services and any Additional Services, as those terms are defined below). Unless the specific context requires otherwise, references to Contractor shall include Contractor's subcontractors as appropriate. In addition to, and without limitation of, any description of the Basic Services to be provided by Contractor contained elsewhere in this Agreement, the following description, together with the deliverables described herein, is intended to set forth the scope of Contractor's Basic Services, but is not intended to be an exhaustive listing of all of the tasks or duties for which Contractor will be responsible as Basic Services under this Agreement. Without limiting the generality of the foregoing, Basic Services shall provide for full implementation of the Project from programming through punch-list and Final Completion of the Project and shall include, but not be limited to, the disciplines, systems and scope defined in this entire RFP document.

ALL SERVICES IN CONTRACTOR'S PROPOSAL SHALL CONSTITUTE BASIC SERVICES, AND ARE INCLUDED WITHIN THE PROPOSED NOT TO EXCEED FEE, UNLESS SUCH SERVICES ARE SPECIFICALLY DESIGNATED AS "ADDITIONAL SERVICES" OR "OPTIONAL".

C. Selection of the Contractors and subcontractors shall be made solely with the written approval of the Owner in its sole and absolute discretion. All such subcontractors shall be retained directly by the Contractor. The Contractor shall include a spreadsheet in the attached format for each of the proposed firms.

D. This RFP makes references throughout to the Codes, Standards and Licenses. Generally, such references relate to those of the City of Berwyn and State of Illinois except as otherwise indicated as related to licensing of hardware and software.

E. Except as otherwise stated herein, all references within this RFP to numbers of "days" shall be "calendar days".

F. Owner will only enter into a contract where it has predictable Project costs and the assurances from the successful Contractor that it clearly understands and is prepared to enter into commitments to complete the Project. To achieve this objective, sufficient Project planning will need to be undertaken and appropriate Project documents developed prior to signing. Prior to selecting a successful Contractor and signing the RFP, Owner will designate one (1) or more finalist Contractors.

The finalist Contractor(s) shall each provide to Owner:

- (1) A Project Work Plan as described in this RFP; and
- (2) A preliminary disaster recovery/business continuity plan. Owner may reject any finalist Contractor if the Project documents are not complete, accurate and comprehensive. Owner will review and finalize such Project documents with one (1) or more finalist Contractors. Such finalized Project documents will be attached to the RFP and be part of the contract between Owner and the successful Contractor. Owner will not reimburse any Contractor for the costs incurred to develop such Project documents, as the development of such documents is considered part of the RFP proposal process.

Proposals:

A. Contractor shall submit x hard copies of its RFP proposal with original signatures on the "Proposal Form" form attached in Section xx.

Proposals shall arrive no later than August 1th 2013, **NOON Central Standard Time ("CST")**. Include a full copy of the proposal on a DVD formatted for readability on all drive types. The Contractor RFP electronic response documentation shall be provided using the Microsoft suite of products (such as Word, Excel, and Visio). Any Visio file shall also be provided in Adobe Acrobat *.PDF format. The RFP proposals and all materials submitted with RFP proposals shall be retained by the Owner.

Owner:

Mr. Jim Frank
Director of Information Technology
City of Berwyn
6700 26th Street
Berwyn, IL 60402

Questions: All questions with regard to this RFP shall be submitted in writing via email to Jim Frank no later than August 1th 2013, **NOON (CST)**. All responses to questions will be issued via written addendum.

Proposals will be opened privately. Owner reserves the right to reject any and all proposals and to waive any informality in proposals received whenever it determines such rejection or waiver is in its best interest. No obligation, either expressed or implied, exists on the part of Owner to make an award for the work or for cost incurred in the preparation of the proposal covered by this RFP.

As stated above, this RFP will become the contract between Contractor and Owner. Owner, and its legal counsel and other representatives will be making all agreed upon revisions to the RFP prior to its finalization.

Contractor's standard contract or additional terms and conditions submitted with Contractor's response to this RFP will not be reviewed by Owner.

Contract Negotiation Process and Procedures:

Among other evaluation criteria, Owner will evaluate Contractors based on the likelihood of reaching contract terms that are consistent with the commitments and terms set forth in this RFP. Owner will control all revisions to the RFP and other documents. Meetings will require the in-person presence of the Contractor's negotiation team at Owner's office, however, telephonic meetings may be scheduled at the discretion of Owner. Contractor will be responsible for its own costs and expenses in negotiating the RFP and other documents.

Interviews:

Subsequent to the receipt of proposals, the Owner may conduct interviews with selected RFP respondents to discuss the Project in greater detail and to meet the key members of the Contractor's team. These interviews will be at the sole discretion of the Owner. The Date and time for these interviews will be determined after receipt of proposals.

Notification of interviews will be made no more than two days in advance so all Contractors can have all members of their interview teams available during this period. Interview teams will be limited to a maximum of three Contractor personnel.

Each Contractor must provide "Proposal Letters", to include:

- Letter from an officer of the Contractor indicating ability and commitment to provide
- Sufficient staffing and support to meet the specified time schedule for all specified products.
- Letters from a corporate officer or other authorized individual of each specified manufacturer for the 1) phone system and 2) network products, agreeing to meet the required delivery dates and installation dates as scheduled herein and further agreeing to provide shipment date confirmations to Contractor and directly to the Owner no later than seven (7) days after receipt of initial or subsequent orders.
- Letter committing to on-site support during all phases of installation, integration, commissioning and testing of systems.

Contractor's proposal must include details confirming Contractor's use of in-house or outside sources for a "Union Labor" installation. Please indicate the names of all outside consultants or contractors to be retained for any portion of the work identified herein. All on-site labor including truck drivers delivering to site are required to be "Union" and affiliated with the appropriate "local" to avoid any labor disharmony.

Contractor's proposal must include certification or other documents confirming approval to do business in the City of Berwyn and State of Illinois.

Contractor's proposal must include resumes of the Contractor's as well as Contractor's subcontractors Project team, both in the office and in the field, outlining each individual's responsibilities, similar projects completed including their role in those projects, certifications, years in the industry (broken down by broad functions (such as technician, project manager, etc) and years working as a full time employee for the Contractor.

Staffing Matrix:

Contractor's proposal must include an organizational chart specific to this Project. Provide a staffing matrix in Microsoft Excel which indicates percentage time commitment of each team member during each phase of the Project and anticipated number of hours by team member and phase required to satisfy the requirements of this Agreement. The purpose of this document is to establish for the Owner's evaluation a complete understanding of the Contractor team, team member availability and level of participation, team member accountability for Services being produced, professional competence to fulfill those responsibilities and similar items. It is expected that key team members will be available and committed to the Project as necessary to meet all of the requirements identified herein for Project delivery whether or not those commitments exceed the percentages or hours indicated in the submitted staffing matrix.

Contractor's proposal must provide pricing for extended warranty and maintenance agreements for years three through seven. Years one and two warranties and a full two years of maintenance are to be included in the Basic Services portion of the Contractor's proposal. Owner's purchase of extended warranty and maintenance Services beyond year two must be optional.

Contractor's proposal must include Contractor's analysis of the Project Master Schedule included herein and methodology for implementation of Contractor's work to achieve the schedule.

The Contractor must define in their proposal any specific actions or requirements of the Owner and/or the Owner designated representatives and other contractors to assist in the preparation or implementation of the Project.

Selection:

The selection of a Contractor will be based primarily on qualifications of staff and firm, completeness of scope of Services, proposed fees, the likelihood of reaching contract terms that are consistent with the commitments and terms set forth in this RFP, and demonstration of understanding of Project scheduling needs for implementation of the Project scope to achieve all of the requirements within the RFP.

RFP Disclaimer:

This RFP is not an offer to contract. Owner reserves the right to request additional information, or clarifications of material submitted by the Contractor during the selection process. Any representation made within this RFP must not be considered a contractual obligation by Owner or any of its agents or affiliated entities. Owner reserves the right to reject any and all proposals and to identify and to select the Contractor that Owner, in its sole and absolute discretion, deems most qualified to provide the required Services. Each Contractor must be solely and totally responsible for all costs associated with responding to the RFP, and Owner accepts no responsibility with regard thereto.

The proposals prepared by the Contractors will become the property of Owner and will not be returned. With submission of a response to this RFP, a Contractor agrees to and accepts all actions and decisions by Owner with regard to the identification, selection and negotiation of and with Owner for the services required for the proposed Project site herein described as final, binding and conclusive. Each such Contractor agrees to and does release and forever discharge Owner and each of its respective officials, officers, directors, employees, agents, members, partners, subsidiaries, affiliates, successors and assigns of and from any and all claims or liability relating to, arising out of or in connection with this RFP or any actions or decisions taken or made by any of them in connection with this RFP.

Any contract entered into between Owner and the successful Contractor will incorporate the requirements and specifications contained in the RFP, as well as the entire contents of the Contractor's response (*e.g.*, product sheets) as accepted by Owner. Statements contained in a Contractor's RFP response that such response cannot be included in a contract will be disregarded and Contractor's subsequent refusal to incorporate the entirety of the RFP response may result in the disqualification of Contractor.

Proposals should include the following information:

- Vendor Overview
- Vendor Qualifications

- Vendor Partners for the solution proposed
- Vendor Experience in implementing similar proposed systems
- Vendor References (include a minimum of 3)
- Overview of Vendor IT staff, qualifications and certifications
- Software and Hardware:
 - Clearly specify each piece of hardware (server, switches, proprietary hardware) with model numbers and software with version numbers
 - Planned/warranted lifespan (based on the manufacturer or creator's intention to support) of hardware
 - All quantities of equipment (hardware, software, licenses)
 - Licenses
 - Implementation plan
 - Risk assessment
 - Failover option or plan
 - Maintenance or support contracts, etc.
 - Maintenance requirements and size of windows to perform maintenance
 - Migration path of upgrades or updates and their respective impact to operations
 - Skill sets recommended to support proposed hardware and software
 - Readiness Statement as to the state of ACC's data network
 - Assumed infrastructure needed based on the manufacturer or creator's recommendations

System Requirements and Implementation

City of Berwyn staff and the Vendor will work toward implementing a VOIP solution system under the following:

- Bidder must be an authorized Avaya business partner, and must have a minimum of Gold-level partner status with Avaya.
- Bidder must be authorized to deliver an Avaya co-delivery maintenance proposal.
- Bidder must have local "feet on the street" that are employed by the business partner and dedicated to the geographic area within 50 miles of the City of Berwyn.
- Business partner "feet on the street" technicians are required to hold current, active certifications for all the Avaya items included in the proposal. Active certifications must be for installation & maintenance.
- Bidder will include the quantity of certified technicians (as described above,) and specify their dispatch location.
- City of Berwyn will consider all Vendor hardware proposal that adhere to bidding requirements, but purchase of equipment for future replacement of phones must not be limited to a single vendor resource.
- All equipment will include all necessary power cords and cables that may be needed.

- City of Berwyn, at its own discretion, has the right to accept or reject any proposal that does not meet the requirements of this RFP.

Scope and Specifications

The purpose of the RFP is to obtain the installation and maintenance of a unified communications system. This telephone system upgrade will include several areas of concern. The proposed solution must contain redundancies beyond a single site, providing for complete failover to secondary site in the event of a loss of the first site, without losing any communications features provided by the solution. The proposed solution should include all equipment, installation, and cabling to prepare second site. At present, the core phone system equipment operates from a single site. The solution should contain provisions designed to electronically manage the office – e-faxing, outlook integration with voicemail, etc. The solution must be Avaya-based, providing a clear upgrade path for future changes to the architecture. The solution must consider existing equipment, and re-use where applicable, but also remove what is no longer used from the system. Removal of unnecessary or retired telephone lines, (cable removal), SRG equipment, or any other no longer used equipment from the original telephone system should be included in the proposal.

- CS1000M SG Upgrade to R7.6 1000E & 1010 Media gateway(s)
- Make system Geo-Redundant
- Upgrade existing Call Pilot from 201i R4 to Call Pilot 202i R5 & also make the Call Pilot Geo-Redundant
- Re-use the existing Digital Card ? and Analog station & trunk card(s)
- Provide the Avaya Collaboration Pkg as part of the solution
- Upgrade existing Veramark (eCAS) Call Acct system from V5.1 to V10.4
- Provide the SRG changes to direct connect IP sets – Re-use existing sets
- Define Call Pilot Apps used
- Vendor Credentials
- Indicate life cycle support in the response
- CoB will be responsible for providing all the WAN/LAN Network equipment to support the requirements of the solution
- CoB will be responsible for providing all Subnet addressing as required
- Request that the vendor supply all necessary specs for the above
- Use the existing rack in the switch room or a new one
- Provide all required Services & Maintenance quotes & pricing associated with the upgrade/conversion for the upgraded CS1000E and Avaya Aura components
- Replace the existing OPT61C (CS1000M SG) with a 1010 cabinet at the PD facility
- Provide the Geo Red solution with another 1010 cabinet at the VH facility
- Upgrade Call Pilot from 201i to Avaya Aura Messaging system
- Provide AA Messaging redundancy (Geo Red) with a second AA Messaging system at the VH facility
- Remove SRGs and reprogram sets directly to the system

- Upgrade Call Acct system
- Note that the Call Pilot is replaced with Avaya Aura Messaging
- The CS1000M SG Cabinet is removed from the footprint
- All equipment is supported for the duration of CoB requirement

TECHNICAL REQUIREMENTS

Site Infrastructure Design:

1.) The Owner shall make available to Contractor its infrastructure construction documents so that Contractor can review and confirm the condition scheduled to be in place when Contractor starts work at the Premises. Contractor shall include in their Services all items required or necessary to allow the specified products and systems to operate and provide full functionality using this infrastructure. Should Contractor require modifications to the Owner's infrastructure after award of the Services herein, such modifications shall be made by the Owner at the Contractor's cost.

2.) The Contractor shall coordinate with the Owner to ensure a well-managed installation, including but not be limited to scheduling and planning with the Owner's designated team and working with local Owner representatives.

Notwithstanding the above requirements, the Contractor shall provide the Owner with a written listing of the following items for each of the systems awarded:

- a) Environmental Requirements
- b) Electrical Requirements (includes all workstation locations in addition to equipment room)
- c) Heat Dissipation on all System Components
- d) Physical Dimensions and Clearance Space

Installation:

1.) All work shall be performed in accordance with the project schedule during the Owner's Normal Business Hours excluding unique business requirements (e.g., the Owner's holiday schedule). Deliveries shall be in accordance with requirements elsewhere in the RFP. The Contractor will coordinate working hours with the Owner to ensure consistent access and security to the building. The cutover will take place outside the Owner's normal business hours.

The Contractor shall include costs for any premium or off-hour efforts required for the cutover or to maintain the schedule requirements herein.

2.) Subsequent to cut-over, any work which may impact the stability of the systems or require a shutdown of production products shall, when directed by Owner at their sole discretion, take place after hours or on weekends.

3.) The Contractor's services include physical installation of equipment into racks and/or cabinets, power and data connections to infrastructure and other systems, placement of devices throughout the Owner's space as required, labeling, testing, and removal of all associated packing equipment.

4.) The Contractor will work with the Owner to define requirements to integrate all new systems as appropriate into the Owner's existing systems, including but not limited to, New System Servers, Voice Mail, etc....

5.) The Contractor will enforce strict discipline and good order among its employees and its subcontractors' employees in performance of the Services. Contractor shall not permit its own employees or employees of subcontractors to perform any of the Services hereunder who are unfit persons, or persons unskilled in the tasks assigned to them.

6.) The Contractor will have visited the Premises and be familiar with the local conditions.

Product Deliveries:

1.) All products and materials shall be initially delivered to the Contractor's facility.

Products shall be configured, tested and burned-in for a minimum of one month prior to being delivered to the Owner's facility.

2.) Contractor must not substitute any product or product component for other product or product component without Owner's prior written consent. Contractor acknowledges that any withholding of consent, among other reasons, may include Owner's determination that the proposed substitution would or may affect adversely the form, fit or function of the product, product component and/or prior installed products, or there is insufficient data or information in which to make an informed determination.

Contractor may be permitted to temporarily substitute products or a product component with other products or product components of equal or greater capacity and functionality if:

- a) Any ordered product or product component is unavailable to meet the delivery requirements of Owner as specified in the RFP;
- b) Contractor provides prior written notice of the substitution to Owner along with a plan to replace the substitution with permanent product; and
- c) Owner consents in writing to the proposed substitution. If Contractor substitutes products or a product component, the cost of installation and removal of such substitute products or product components shall be at Contractor's sole expense.

Cutover:

1.) This will be a single-phase cutover as outlined in the project schedule described in the RFP. At cutover, the system will be fully operational with all products working in accordance with the Owner's functional specifications.

2.) The Contractor shall perform system cutover including coordination with Carriers as needed.

3.) The Contractor shall ensure that the new voice system as newly configured is fully operational to ensure that the Owner's staff can continue to operate in the new environment seamlessly.

This shall include ensuring that calls and voicemail are available to all end users just as before the upgrade/cutover.

4.) The Contractor shall provide documented escalation procedures to address system implementation issues across all systems through each phase of the project

Correction of Discrepancies:

1.) Any system component failure or discrepancy including defects in operation or service, or other problems discerned during final testing, cutover, inventory, or post cutover performance shall be directed to the Contractor for resolution at the Contractor's sole expense prior to system acceptance.

The Contractor shall prepare contingency plans to provide business continuity should problems arise with the installation or operation of the new products prior to acceptance. These plans should include but are not limited to the following:

- a) Failure of any major components (ie., call processor, call manager, voicemail server, carrier connectivity, network core switch, etc.)
- b) Failure of any equipment that does not have redundancy.
- c) Failure of the software configuration or programming

2.) All implementation discrepancies and defects will be reported and tracked by the Contractor using an incident tracking tool agreed to in writing by the Owner and accessible by the Owner. Implementation issues are to be categorized by impact and closed in a mutually agreeable timeframe between Contractor and Owner. If any discrepancies and defects remain thirty (30) days after being initial reported, Contractor shall employ additional resources to resolve issues.

3.) When discrepancies and defects are resolved the Contractor is responsible for configuration, testing (including but not limited to regression testing to ensure that the system functions the same as the current system) and implementation. Advance testing by the Contractor in an off-line test environment will validate requirements in advance of any implementation. Correction of discrepancies and defects will be managed in accordance with best industry practices including, but not limited to, implementation plans that involve Owner stakeholders, and include appropriate back-out plans.

System Archive and Restore:

The Contractor shall coordinate and successfully implement a full system archive.

This archive shall use the Owner's existing technology or with the written approval of the Owner, an acceptable alternative. Creating the normal schedule for regular backups shall also be the Contractor's responsibility. Any new or expanded licenses required to execute this backup are the responsibility of the Contractor. The Contractor will verify that system backups are completed including complete file verification and that accurate restores are viable.

Acceptance:

1.) The Contractor shall furnish and install a complete turnkey set of systems as described in this RFP. The systems will be a fully operational system, and shall operate as described including, but not limited to, all functionality as described in the RFP as well as all functionality called out in the Contractor proposal submitted. The Contractor acknowledges that "turnkey" includes both the new equipment and Software to be furnished and installed by the Contractor, and their subcontractors, as well as full integration with the Owner's existing remote offices, data center, data network, network monitoring and management systems, out-of-band management solutions, security systems, including any other technologies, implemented within the scope of this RFP.

2.) The Owner shall formally accept each system after the Contractor has demonstrated that the system, software, and all associated peripheral products meet the performance criteria specified by the manufacturer and the RFP, whichever is more stringent, for a period of 30 consecutive days after the Owner commences operations with no major failures or interruptions.

All management and administrative systems shall be fully operational and all integration with new and/or existing systems, as described in this RFP, has been completed and fully tested to work as designed and meet all Specifications (excluding exceptions whereby Owner has approved a deviation in writing) including resolution of all discrepancies. The acceptance criteria will be used by the Owner to

confirm that all functionality contained in the RFP is delivered and operational and that all open issues are resolved and closed satisfactorily to the Owner.

3.) Contractor is required to attach detailed design documents describing the proposed approach and content to be used to construct the turnkey systems. These documents should be specific enough so that anyone reading only a section would gain a clear understanding of the technical and installation components included in your proposal. Documents shall include, but not be limited to the following:

- a) Detail Design Specification Documents
- b) IP Telephony and Voice Mail System integration
- c) Wired Data Network

Record Documents:

1.) Contractor shall provide a complete set of technical, operation, maintenance and training manuals that encompass all proposed system(s) hardware and software as requested by the Owner. Documentation shall be provided in both printed and electronic copies using the Microsoft suite of products (such as Word, Excel, and Visio).

2.) Documentation, in addition to requirements contained elsewhere in the RFP, shall include, but is not limited to:

- a) Visio diagrams of the “as-built” system configuration with the network topology depicting equipment layouts for each system including all related hardware including locations installed, model numbers, serial numbers, MAC and management IP addresses for all devices.
- b) Detailed configuration information for each hardware device, including copies of system configuration at cutover, configuration scripts, settings, etc.
- c) Documentation of how the Owner requirements were implemented including, but not limited to, descriptions of VLANs, QoS, trunk quantities, ARS patterns, Class of Services and other relevant information.

3.) Documentation Deliverables:

- a) Detail Design Specification Documents
- b) Data Center, MDF and IDF rack equipment diagrams
- c) Comprehensive project plan including a separate milestones plan
- d) Weekly status reports

4.) Phone System as required

- a) End User usage guide
- b) Phone usage guide
- c) Voice mail usage guide
- d) Administrator guide
- e) Equipment parts and serial number inventory list for asset tracking.
- f) Documentation identifying network connections to the network core
- g) Installed patch/update release notes
- h) Remote Monitoring

The Contractor shall provide options detailing remote monitoring services offered by themselves or the manufacturers they represent. The recommended option shall be included in the Contractor's Not to Exceed Fee and the remaining options proposed as alternates with associated additive or deductive costs.

Maintenance:

The Contractor shall include a two years complete service and maintenance agreement with the option for renewal of this contract for additional one-year terms for years three through seven. The start date for all maintenance agreements shall be the date of Final Completion. The maintenance agreement shall cover all necessary labor and material to maintain all system hardware (including firmware upgrades) and software components. For both the initial warranty period and subsequent renewable maintenance period(s), the maintenance plan shall include but not be limited to the following provisions:

- a) 7x24 telephone support coverage 365 days per year through a support center.
- b) Include and clearly state minimum guaranteed discount pricing on products beyond the initial periods stated in the RFP.
- c) Provide pricing for extended maintenance programs beginning at the end of the Initial Warranty period for one-year intervals [including breakdowns of labor rates during normal business and premium (evening, weekend, and holiday) hours] for performing MAC (moves/adds/changes) activities and/or service activities as directed by the Owner.
- d) Provide explicit written documentation of what is covered and excluded under the agreement, which shall be no less than that stated herein.
- e) Provide explicit definition of the Contractor's maintenance provisions and obligations vs. the manufacturer's.
- f) Provide a profile including titles and staff levels of the Contractor's maintenance organization, resources, capabilities, and experience with the proposed system, and contact information.
- g) Guarantee a single point-of-contact during Normal Business Hours.
- h) State a guaranteed response time(s) (confirmation and/or dispatch) to resolve system failures and alarms.
- i) Maintain and make available to the Owner a 24/7 written history log of all performed maintenance, system configuration and a MAC activity record.
- j) Provide a schedule of inspections, performance analyses, tests, preventative maintenance if required, and remote monitoring initiatives to ensure system performance, toll fraud detection and remedy potential faults. Include any or all costs associated with these activities.
- k) Identify a location and maintain or detail Contractor's access to a full inventory of parts and software as appropriate to support the proposed systems.
- l) Emergency Service replacement parts, with or without a field engineer, shall be delivered within 2 hours of determining that part replacement is required (24 hours a day, 7 days a week – Monday through Sunday).
- m) Replacement parts for failures that are not service affecting shall be delivered within 36 hours.
- n) Provide and install all manufacturer recommended or available hardware (including firmware upgrades) and software upgrades as applicable for the system in place on a mutually agreed upon schedule.
- o) In the event the Owner requests service during normal business hours and the time required for completing such service and/or repair extends beyond the contractual hourly period of the day,

the Owner will have the option to direct Contractor to complete such call the same day or the following day at no additional cost.

- p) Contractor shall not leave the Owner's site without returning the system to full operation or providing written and verifiable documentation with an acceptable explanation as to why the service call cannot be completed, which will be reviewed with the authorized Owner's representative prior to the technician leaving the Owner's facility.
- q) Use only new parts and equipment during the two year warranty and maintenance period. In subsequent years three through seven, factory refurbishment of original parts is acceptable provided the refurbished item is factory certified and warranted and provided new parts are not commercially available. Refurbished parts may be used for fulfillment of Emergency Service repair and then replaced as soon as possible with new parts.
- r) New Parts Supplied by the Contractor: Supply only new parts that are certified by the manufacture and will maintain all current and future warranties and that are consistent with manufacturers' requirements for continuity of support. Refurbished or aftermarket parts that are not certified by the manufacture that may void warranties and support are prohibited from being used.
- s) System service includes replacement of all parts and/or components and necessary services required to restore normal system operation to pre-failure state and as originally designed and engineered.
- t) 24x7 Proactive Fault Monitoring through the Contractor's NOC
- u) Options for on-site response and repair
- v) Include ability to provide remote and/or on-site support, as required, to meet the following SLAs (Service Level Agreements):

Description of Current Telephone System

The current telephone system in use within the City of Berwyn is a Nortel CS1000 Option 11C. This completely VoIP system includes around 250 IP sets, (Nortel 1120E and 1140E primarily), several dozen analog ports, and a number of other Nortel-specific licenses purchased at the time of the phone system acquisition. In addition, the City of Berwyn's small seven satellite sites utilize BCM50/100s configured as SRGs (Survivable Remote Gateways) to provide an additional layer of redundancy in the event of a loss of central telephony resources. Four PRI trunks are employed to handle inbound and outbound call from within the CS1000 telephone system.

- See attached Rack Face Layout from Excel spreadsheet
- Provide CS1000M SG system software information – R 4.5
- System Serial Number - 318808003
- 4 Pri Circuits
- This is an AC system w/existing UPS - To be re-used.
- Provide Call Pilot 201i system software information – Include Ports
- Provide Veramark Call Acct system information V 5.1
- Provide SRG information – Locations and quantity of sets at each location, see attached spreadsheet
- E911

- Paging requirements – Valcomm Units (3-5 in total around city)
- Requirements for MOH, RAN or Call Recording

Current Veramark Call Acct System Notes:

- Veramark system serial number – 53049 – Old system
- At purchase time it was version 5.1 (5 years old – purchased in 2008)
- Veramark is currently running version 10.4
- Have a PSU (Buffer box that connects to the CS1K)
- CoB Veramark options :
- CoB owns the license: Therefore can get a new server and install them
- CoB must check the server compatibility so that it can handle the latest version 10.4
- Can be virtualized but must be a dedicated server or PC
- Can upgrade, which allows them to maintain existing data and access archives – the upgrade would be the more expensive option
- Can do a fresh install the new license, in which case Cob would lose any historical databases/archives
- Must pay a maintenance re-instatement fee so can do either of the above
- Can go direct connect or via CLAN
- Gateways are not counted against the licenses. Can poll these automatically
- Can do both CS1K and CM simultaneously
- Gateways are not counted against the licenses. Can poll these automatically

Description of Network

The City is comprised of eight locations, all connected via AT&T Opt-e-Man fiber network. The WAN encapsulation is standard TCP/IP and Ethernet. Each location is typically terminated by a Cisco 2801 or 2821 router. Branch locations are serviced at 20 mbps whereas head end (City Hall and PD) have 50 mbps speeds. EIGRP is the routing protocol used at all locations, static routing is also used in some circumstances. L3 switching (switched virtual interfaces) is used to provide routing/gateways for VoIP devices. Currently VoIP phones are assigned static addresses.

Voice traffic rides over the same WAN/LAN links as data traffic. Most locations use separate Cisco Catalyst Power Over Ethernet (PoE) switches to power VoIP phones. The current Nortel CS1000 system and related equipment are housed at the PD. Each branch location currently makes use of Nortel BCM/SRG units – essentially a backup device that fails over to POTS lines in the event of WAN link failure.

The City uses AT&T Managed Internet Service (MIS) as its ISP at 10 mbps. The library has a separate 20 mbps MIS, additionally 10 mbps from Illinois Century Network (ICN).

See attached graphic documentation of network.

Installation Service and Maintenance

The sections of this RFP are separated for convenience in assessing the scope of Services required for the various services identified. In order to properly fulfill the Project requirements and provide for a complete scope of Services, each Contractor is encouraged to review the Services and scope of items in all sections of the RFP.

Contractor and all subcontractors are to include all items in their Basic Services as required to address the scope of Services included throughout this RFP along with all of its attachments and exhibits.

The Contractor shall include in its Basic Services proposal the amount it deems appropriate to complete all items for the scope of Services identified herein whether specifically described or not. The Contractor may identify as Additional Services additional scope items in its proposal beyond those contained herein along with associated fees if they believe such Additional Services to be desirable in further defining the Owner's requirements prior to selection for the Project. All Reimbursable Expenses (as defined herein) for the scope of Services described in this RFP shall be included as a separate Not to Exceed cost and listed on the attached Proposal Breakdown.

All Services described herein are intended to be performed by staff employed directly by Contractor and located in Contractor's (and, as applicable, subcontractors) Chicago office(s) unless specifically indicated as an outside contractor performing specialty Services and so identified in Contractor's proposal (along with a description of such specialty Services and the location of the performance of such Services). Owner and Contractor agree to a mutual non-hiring of each other's staff during and for six months after all Project activities reach Final Completion.

The Basic Services designated herein reflect, without limitation, coordination of all Services with Owner; data gathering and requirements, design, configuration and programming and construction phase meetings and field observation; and other services required to achieve items of scope as further defined herein. The Project will require close coordination with the Owner's management and technology staff, facility personnel and other members of the Project team to ensure completeness and continuity of Services.

The Contractor shall present overall designs for the entire integrated set of systems, including migration from the old to new systems and receive Owner approval before proceeding.

The Contractor shall have the ability, skills, and resources available to begin the Project As scheduled and to complete all of the Services described herein within the prescribed schedule and to provide coordination with all of the Contractors and subcontractors and Owner. Presentations by specialty consultants or other resources shall be made directly to Owner at Owner's office, or other location(s) approved by Owner; however, Contractor shall be present. Initial programming and design meetings with Contractor and subcontractors shall include the Owner.

The Owner reserves the right to directly contact anyone retained by Contractor for the

Project, including but not limited to subcontractors to discuss any aspect of the Project. Contractor shall make their subcontractors aware of this provision and require their cooperation with Owner in these matters.

Contractor shall field verify conditions and dimensions of space where equipment is to be installed. Contractor shall specifically not rely upon the drawings furnished for accuracy of the as-built conditions. Verification of drawings and field conditions are part of Basic Services. Contractor and subcontractor shall be responsible for field verification prior to start of implementation of any systems which are part of the Services and considered as deliverables prior to the beginning of the Project

Project Work Plan: As described in earlier Sections finalist Contractor(s) shall provide a detailed schedule (the "Project Work Plan") for the design, implementation, development, integration, migration and cutover plan, or other similar services to incorporate all of the Services required by this RFP that shall include, but not be limited to, the following items:

- a) Identification of all milestone events and interdependent milestone events;
- b) Identification of all critical path milestones ("Critical Path Milestones") and the commencement and completion dates for such Critical Path Milestones;
- c) Detailed description of all activities to be performed by Contractor and their Subcontractor(s) and Owner, including task and sub-task activities, the party responsible for each activity, and for on-site activities the location of such activities;
- d) An overall project communication plan including format and frequency of status and reports and the dates and locations of scheduled status meetings; and
- e) Commencement and completion dates as well as schedule float time.

Preliminary disaster recovery/business continuity plan: Finalist Contractors shall provide a detailed disaster recovery/business continuity plan tailored to the Project.

Owner shall prepare the installation site for the product(s) in accordance with the Owner's specifications and guidelines, including floor space, lighting, utility, air conditioning and other environmental requirements for the product(s). Contractor is responsible for reviewing the Owner's design documents if Contractor has any concerns or special requirements they want to confirm in order to properly install their equipment. Upon written notice from Owner that such requirements have been fulfilled, Contractor shall inspect the installation site and:

- a) Acknowledge in writing that the installation site is suitable for effective installation and operation of the product(s); or
- b) Advise Owner in writing that the installation site does not comply with such requirements and the reasons for such noncompliance.

In addition, to the extent Contractor failed to advise Owner of all the requirements for the installation site, any additional costs to correct any non-conformities shall be at the sole expense of Contractor. The suitability of Owner' site preparation shall be deemed properly prepared if Contractor has failed to submit a written statement of noncompliance within seven (7) days of Owner' notice that the installation site requirements have been fulfilled, and Contractor shall not be excused for any delay if the cause of such delay is based upon Contractor's failure to notify Owner of any such noncompliance. Owner acknowledges that it shall be responsible, at its sole cost and expense, for correcting any site-related deficiencies identified by Contractor within the initial seven (7) day period identified above.

Relationship Management:

Contractor shall assign a single account executive ("Account Executive") to Owner's account who shall, among other things:

- a) Serve as the single point of contact at Contractor to administer all aspects of the Agreement; (2) Ensure that all policies and procedures relating to Contractor's administration of the Agreement are applied consistently by Contractor;
- b) Coordinate the provisioning and acquisition process for products, Services and software to be provided to Owner;
- c) Communicate to Contractor any Owner-specific technical considerations; and
- d) Communicate on a regular basis any planned discontinuation of products, replacement parts or support and maintenance Services.
- e) The Account Executive shall have sufficient authority within Contractor to discharge the obligations stated above, and if Owner determines that such individual lacks the authority to discharge such obligations effectively, Owner shall communicate that determination to Contractor, and Contractor shall replace such individual with an individual who has such authority.

Executive Briefings:

Contractor acknowledges that Owner's investment in the equipment and software is significant and involves a substantial commitment from Owner in the form of monies, resources, time and effort. Contractor further acknowledges that the products are composed of dynamic and constantly changing and evolving technologies. In order for Owner to be fully aware of the changing technology environment as it affects the products, Contractor will provide Owner with semi-annual executive briefings from key Contractor executives, the Account Executive and manufacturer representatives regarding the status of, and developments affecting, Owner's investment including, without limitation, a description of all features and functions that Contractor expects to include in future releases of the products. As a dynamic telecommunications systems environment, Owner wants to incorporate new and valuable technologies into its systems on an ongoing basis as it may deem appropriate. Accordingly, Contractor agrees to advise Owner of all technological advances and breakthroughs of which it is aware that are relevant to the products and that may enhance the functionality, reliability, response time and/or other qualities of the products.

Changes to Purchase Orders:

For any changes that will result in an adjustment to a major deliverable date, a reduction in the scope of activities, an out of scope activity, or a change to a Critical Path Milestone date, a Change Order will be required.

Software License:

Contractor grants to Owner a perpetual, right to use (based on and subject to parameters set forth herein or in the applicable Product Requisition), non-exclusive, non-assessable, irrevocable, fully-paid, multi-site and enterprise-wide license for Owner and its authorized users to:

- a) Use the Software in conjunction with the products and equipment upon which the Software is installed and the documentation;

- b) Make as many copies of the Software and documentation as Owner deems necessary for production, testing, disaster recovery, disaster recovery testing, backup, training and education, development and archival purposes; and
- c) Combine the Software with third party products. Without limiting the generality of the foregoing, the term "enterprise-wide" shall mean the right to use the Software across the entire spectrum of business and operational activities involving Owner, now and in the future, directly or indirectly. Contractor acknowledges that the grant language shall be interpreted broadly in favor of Owner. Furthermore, if Contractor develops future limitations, qualifications and/or restrictions in how it licenses the Software to its customers, such future limitations, qualifications and/or restrictions shall have no effect on the scope of the license granted herein to Owner and Contractor expressly disclaims the right to claim otherwise.

The turnkey solutions will include, but not necessarily be limited to, providing all necessary hardware, operating systems and other software within the Not to exceed amount. Contractor will include full itemized costs for all servers, operating systems, and other licenses required.

Upon Final Completion Contractor shall provide to Owner all licenses required to operate all aspects of the Software and system, including any third party licenses, in original form, already registered in Owner's name with the manufacturer (or any other required registration), and provided to Owner in electronic summary form. Notwithstanding the requirements in this paragraph, Owner shall be permitted to operate all aspects of the Software and system at the time of Substantial Completion prior to receipt of this formal documentation.

Contractor shall provide all codes, login IDs, activation keys and similar items (collectively, "Permissions") required to use the Software as are generally available to Contractor's customers; However, nothing in this provision will require Contractor to provide free of charge Permissions that are generally available only as separately licensed features.

Owner shall not disassemble, reverse compile, reverse engineer or otherwise translate the Software.

Deliverables:

Each deliverable provided to Owner shall be in a form, format, and in such detail as is necessary to:

- a) In the case of deliverables in respect of which specifications have been developed, cause it to conform to such specifications; or
- b) In the case of deliverables in respect of which specifications have not been developed, considering the purpose of the deliverable, cause it to be reasonably acceptable to Owner.

The Contractor shall continuously monitor the progress of the products ordered to ensure timely and coordinated delivery dates and provide tracking of merchandise when necessary.

Contractor shall prepare punch lists specifying the work to be completed and/or corrected in accordance with the requirements of this Agreement. All punch lists shall be reviewed with Owner, and the Owner and their staff may review and identify additional items required for compliance with this Agreement. Contractor shall revise punch list to include Owner identified scope items that are incomplete or deficient.

The Contractor shall coordinate shipping of product to ensure that the product arrives at the site properly tagged and in the correct sequence for expedient installation in accordance with the Owner's

approved schedule. The Contractor shall provide a documented process for verifying to the Owner the delivery of all items listed on the Bill of Materials.

Contractor's project personnel shall meet with Owner and provide status briefing sessions on key matters relating to the work. During such status briefings, the parties shall discuss, the status of the Project and any difficulties or issues that may exist, and any proposed changes to dates generally and any Critical Path Milestone dates specifically. Additionally, Contractor shall present to Owner a written report of the status of activities and a current project plan no less frequently than every two weeks. The report shall include a summary in such detail as Owner shall reasonably request of the accomplishments and difficulties encountered, suggestions and proposed actions for dealing with and resolving any identified difficulties and the anticipated results, and a comprehensive and consolidated log of all outstanding Project-related problems identified by Owner and Contractor that remain to be resolved. Following its receipt thereof, the Owner shall review and provide to Contractor any feedback and comments it may have, following which Contractor shall incorporate any feedback and comments into the report and re-issue the report in final form. Owner shall have the right to assume that Contractor is not aware of any problems, issues or risks unless Contractor specifically identifies such problems, issues or risks in the project briefing reports.

Title to equipment (products) shall pass to Owner upon Final Payment. If requested by Owner, Contractor shall provide Owner with a bill of sale evidencing that title to the products has been conveyed free and clear of any and all liens, encumbrances and charges. Risk of loss of equipment shall pass to Owner on Final Payment.

Final Payment shall not be issued by the Owner to the Contractor until all work including punch-list items and delivery of record documents have been completed and delivered in accordance with the requirements of this RFP.

Warranties & Parts Availability:

Parts availability for all products required for repairs shall be available for a period of not less than the maintenance and warranty periods or 10 years, whichever is longer.

Owner may request from time-to-time the status of Contractor's inventory of products, equipment or parts, and upon such request, Contractor shall provide any available inventory information to Owner, Contractor shall notify Owner of the discontinuation of any products, equipment or parts immediately, but at least six (6) months prior to such discontinuation.

Contractor shall warrant that all products furnished by Contractor, their subcontractors, or manufacturers shall be free from defects in material and installation labor and operate in accordance with the applicable manufacturers' documentation for two (2) years from date of Final Completion of all portions of the Project (the "Initial Warranty Period") and thereafter (provided Owner has elected to receive support and maintenance Services from Contractor).

Contractor covenants that the equipment configuration set forth in the RFP shall constitute the equipment resource capacity required to operate the products in accordance with the applicable documentation, and that no additional equipment or software is required or necessary to operate such products in accordance with the applicable documentation.

The Contractor represents and warrants to Owner that it has the skills, resources and expertise to provide, and that it shall provide, all Services in accordance with the terms of the Agreement. Without limiting the generality of the foregoing, Contractor represents and warrants to Owner that all Services provided under the Agreement shall be provided in a timely, professional and workmanlike manner consistent with the highest industry standards of quality and integrity provided, however, that where the Agreement specifies a particular standard or criteria for performance, this warranty is not intended to and does not diminish that standard or criteria for performance. Any Services or warranty re-work will be at no additional cost or expense to Owner.

The Contractor shall assist in enforcing all manufacturers' warranties.

Contractor shall provide all licenses and maintenance agreements necessary or in force to fully operate and maintain the installed products. Contractor warrants that the Owner has been provided all necessary licenses as of the time of Owner acceptance. Licenses must be provided in original form and registered if required.

TERMS AND CONDITIONS

Laws & Codes:

In performing its Services under the Contract, Contractor shall perform such Services in accordance with all applicable laws and codes, including but not limited to, laws applicable to the generation, treatment and storage of hazardous materials. Notwithstanding the foregoing, Contractor shall promptly inform Owner of any hazardous materials encountered by Contractor in performing its duties under the Contract and shall not contact any governmental agency or other third party with respect thereto without the prior consent of Owner.

Contractor shall provide a Not to Exceed Fee proposal for performance of all Basic Services in connection with the Project as described herein. Contractor shall also include a Not to Exceed Amount for all Reimbursable Expenses.

The Not to Exceed Fee provides payment in full for all professional fees, equipment, software, licenses, sales and use taxes and all other costs and expenses in the performance of this Agreement (including any fees and expenses of Contractor's subcontractors), unless

- (i) Expressly permitted as a Reimbursable Expense,
- (ii) The direct result of a Change in the Scope of the Project executed in writing by Owner, or
- (iii) Owner has approved the cost as part of an additive change order. Contractor shall not perform services which Contractor believes involves a change in any fee without Owner's specific prior written consent. Any services performed by Contractor without such written approval will be at Contractor's sole cost. Acceptance of Final Payment by Contractor shall be conclusive evidence that Owner has performed all of its obligations under this Agreement and shall release Owner from all claims by Contractor and its subcontractors except those previously asserted by Contractor in writing and still unresolved, and Owner's obligations to pay for Additional Services authorized by Owner and performed hereunder after Contractor's acceptance of such Final Payment.

Reimbursable Expenses:

"Reimbursable Expenses" as used herein means actual expenditures, at cost and without mark-up, for travel and other incidental items described below or as otherwise approved in advance and in writing by Owner. All Reimbursable Expenses for travel must be approved in advance by Owner and supported by proper documentation satisfactory to Owner (e.g., itemized invoices) and shall comply with Owner's Business Travel Expense Guidelines.

Compensation for Additional Services:

"Additional Services" shall be defined as any service required to be performed in furtherance of this Agreement as a result of a Change in Scope of the Project (as defined below). The Contractor shall not proceed with any Additional Services (Changes in Scope of Project) unless and until the Contractor has submitted to the Owner a detailed not to exceed estimate of the costs or time associated with any claim for Additional Services (including, without limitation, any impact on the overall Project schedule), in writing (a "Change Request"), and has received written approval from the Owner to proceed as set forth in the Change Request. Following Owner's written approval of the Change Request, such approved Change Request shall be deemed a "Change Order" which shall become part of the Agreement. Contractor shall provide Owner with a Change Request within ten (10) days after the occurrence of the event or circumstance that Contractor believes may give rise to a claim for more time or money (including, without limitation, any direction or request by Owner related to the scope of the Contractor's Services. Contractor's failure to submit a Change Request within the timeframe required herein or to obtain Owner's written approval prior to proceeding with Additional Services shall result in a full and complete waiver of Contractor's right to more time and/or money associated with such Additional Services. Contractor may separately identify as a part of its proposal, Additional Services and associated Reimbursable Expenses which are not identified in the scope of Basic Services or in Reimbursable Expenses above for Owner's consideration provided that such Additional Services are not required to fulfill the program or design requirements specified herein.

"Change in Scope of the Project" means a substantial change in the Project, whether by alteration, addition, or deletion thereof, which necessitates a revision in the scope of Contractor's Services that goes beyond the Basic Services provided for herein, justifying a change in the compensation of the Contractor and is approved in writing in advance by Owner.

In the event Owner disputes any item invoiced by Contractor, Owner shall notify Contractor and Contractor shall submit verification of such item or a revised invoice. Owner reserves the right to offset any amount previously paid to Contractor for services which were not performed as represented in Contractor's invoice or for services which were performed in a defective manner. The dispute of any item shall not be deemed cause for any delay in making payment of all undisputed items. Provided that payments of all undisputed items are made, Contractor shall continue to perform its Services without interruption in accordance with this Agreement notwithstanding such failure by Owner to pay such disputed item.

Upon completion of installation, Owner will pay up to 95% of the approved Contract Value. Final payment will be made upon Final Completion and when all punch list work is complete and delivery and acceptance of all close-out materials and documents is complete.

Termination of the Agreement:

Default: If the Contractor defaults in performance of the terms and provisions of this Agreement and fails to cure such default within fifteen (15) days after receipt of written notice by Owner specifying such default, Owner may terminate this Agreement. If the Agreement is so terminated, Owner may complete the services or have such services completed by another contractor.

Insurance and Indemnification:

The Contractor shall carry and maintain, and shall cause its subcontractors to carry and maintain, during the term of this Agreement and thereafter as specified below, insurance coverage which will satisfactorily insure it against claims and liabilities which could arise out of the performance of Services under of this Agreement. The minimum insurance coverage required to be carried and maintained by Contractor is set forth below. Insurance coverage must be obtained from insurance companies rated A- or better by A.M. Best, who are authorized to do business under the laws of Illinois, and who are approved by the Owner. The cost of carrying and maintaining any and all insurance coverage required hereunder shall be the sole responsibility of the Contractor and, if applicable, its subcontractors.

If any insurance policy required to be maintained by Contractor is canceled or modified, the Contractor shall promptly notify Owner and replace the altered or modified policy with a policy that is acceptable to the Owner with no gap in coverage.

Contractor shall submit to Owner, within fourteen days of receipt of an executed Agreement, or prior to entry onto the Project site, whichever date is earlier, a certificate of insurance for all insurance as defined herein. All certificates of insurance shall contain a provision that coverage afforded under the insurance policies will not be cancelled, non-renewed or materially reduced without at least thirty (30) days advance written notice to the Owner. The certificates of insurance shall contain the Project description, policy numbers, expiration dates, limits of liability, and shall be signed by an authorized agent of the insuring company.

Upon request, Contractor shall promptly furnish Owner with a copy of each insurance policy required to be maintained by Contractor hereunder. In the event Contractor is unable to furnish evidence of insurance as required herein, Owner shall have the right to purchase insurance to mitigate any gaps in coverage at Contractor's expense and deduct such amounts from the Contract value.

The minimum insurance coverage required to be maintained by Contractor are as follows:

Workers' Compensation insurance for any and all claims which may arise against the Contractor pursuant to provisions of the Workers' Compensation and Occupational Disease Acts of the State Illinois. Contractor shall require all subcontractors and to provide similar insurance for all the subcontractors. Contractor shall provide, and shall require subcontractors to provide, a waiver of subrogation endorsement in favor of Owner. The limit of liability under Coverage "B," Employer's Liability Section of the Standard Form of the Workers' Compensation and Employers

Liability Policy shall be as follows:

\$1,000,000 Each Accident - Bodily Injury by Accident:

\$1,000,000 Policy Limit - Bodily Injury by Disease:

\$1,000,000 Each Employee - Bodily Injury by Disease:

Commercial General Liability as for Bodily Injury, including accidental death, as well as claims for Property Damage which may arise in the course of the performance of Services under this Agreement or from activities under or incidental to this Agreement, whether such activities be by the Contractor or by its subcontractors, or anyone directly or indirectly employed or otherwise contracted by any of them.

At a minimum, Contractor shall maintain the following Commercial General Liability coverage:

\$4,000,000 General Aggregate
 \$4,000,000 Products/Completed Operations Aggregate
 \$1,000,000 Personal/Advertising Injury Limit
 \$2,000,000 Each Occurrence
 \$ 50,000 Fire
 \$ 5,000 Medical Payments

The above required limits may be satisfied by a combination of primary, umbrella and/or excess liability policies. The Contractor will maintain a file of subcontractors' insurance certificates evidencing compliance with these requirements.

Professional Liability insurance policy ("Practice Policy") written by an insurance company licensed to do business in Illinois and approved by the Owner with limits of liability of One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) in the aggregate. The Practice Policy shall cover the Contractor against claims, losses and liabilities arising out of the performance of this Agreement by Contractor or any others for whose actions the Contractor is responsible hereunder. Such Practice Policy shall provide that it may not be canceled by the insurance company without thirty (30) days prior written notice to Owner by Contractor and shall include a contractual liability endorsement. The Contractor shall keep such Practice Policy in full force and effect for the term of the Project.

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner Parties from all liabilities, claims, demands, actions, suits and costs (including, without limitation, reasonable attorneys' fees, expert fees, court costs and expenses) caused by reason of or as result of a notice of lien, claim for lien, lien, or suit to foreclose a lien filed, given, made or maintained by a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, provided that the Contractor has received undisputed payments due to date pursuant to the terms of this Agreement.

Contractor shall secure from all applicable third party manufacturers of products and Software the obligations to indemnify, defend and hold harmless the Owner Parties from all liabilities, claims, demands, actions, suits and costs (including, without limitation, reasonable attorneys' fees, expert fees, court costs and expenses) alleging that such products or Software, or any part thereof, or use of the products or Software, or any part thereof, constitutes a misappropriation of any proprietary or trade secret information or an infringement of any patent, copyright, trademark or other Intellectual Property Right.

In claims against any person or entity indemnified above by an employee of the Contractor, a subcontractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligations above shall not be limited by a limitation on amount or type of

damages, compensation or benefits payable by or for the Contractor or a subcontractors under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

In addition to Contractor's obligation to indemnify and hold harmless the Owner Parties pursuant above, the Contractor agrees to defend the Owner Parties in connection with any and all claims arising out of or resulting from (or allegedly arising out of or resulting from) matters or occurrences which are separately covered under the Contractor's general liability policy required to be maintained herein.

Contractor agrees within five (5) days after written demand or within seven (7) days from the filing thereof, whichever is earlier, to cause the effect of any suit or lien arising out of the work for which Contractor is responsible, to be removed from the Project or to post a bond in accordance with law, and in the event Contractor shall fail to do so, Owner is authorized to use whatever means in its discretion it may deem appropriate to cause said lien to be removed or dismissed, including, without limitation, the posting of a bond pursuant to law, and the costs thereof, together with attorneys' fees shall be immediately due and payable to Owner by Contractor.

The Insurance required above is not intended to cover machinery, tools or equipment owned or rented by the Contractor that are utilized in the performance of the work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor's own expense, provide insurance coverage for owned or rented machinery, tools or equipment.

Owner shall notify Contractor promptly of any claim, suit or demand for which Contractor may be responsible hereunder, however, failure to give prompt notice shall not relieve the Contractor of its obligation hereunder unless such failure materially prejudices the Contractor's ability to defend the claim. Without limiting any of Contractor's obligations hereunder, the Owner shall have the right, but not the obligation, to appear and participate in its defense, using counsel of its choice, in any proceeding in which it is named.

Additional Responsibilities of Contractor:

A. All Services provided under this Agreement shall be performed in a skillful and competent manner in accordance with the standards of the profession, with promptness and diligence to the satisfaction of the Owner as expeditiously as practicable, in a manner consistent with the orderly progress of the Project as established by this Agreement, and in compliance with standards of legal and ethical conduct and all applicable federal, state and local laws and regulations, including but not limited to the currently adopted version of any environmental acts or similar acts in the State of Illinois, the Illinois Accessibility Code ("IAC") and the Americans with Disabilities Act of 1990 (42 U.S.C. 12010 et. seq.) (all of the foregoing constituting the "Standard of Care" hereunder). In addition to all other remedies provided hereunder or under law or in equity, Contractor shall be responsible for any and all fees, penalties and interest that result from Contractor's failure to comply with the Standard of Care.

B. Contractor's proposal shall be guaranteed firm for a period of sixty (60) days from Owner's receipt. Failure of Contractor to comply with this guarantee this may result in a refusal by Owner to consider or accept its proposal.

C. Contractor represents and warrants that it has not employed or retained any other company or person (other than a full-time bona fide employee working exclusively for the Contractor) to solicit or secure this Agreement and that it has not paid or agreed to pay any other company or person (other

than a full-time bona fide employee working exclusively for the Contractor) any fee, commission, percentage, or brokerage fee contingent upon or resulting from this Agreement. Contractor further represents and certifies that neither it, nor any of its subcontractors has any financial affiliations with the manufacturers, dealers or representatives of any products it recommends for consideration for the Project.

D. Contractor represents and warrants that it shall make support and maintenance available for each product purchased from Contractor for a period of ten (10) years from and after the date of Final Completion of the Project.

E. Contractor represents and warrants that no attempt has been made to induce any other company or person to submit or not to submit a proposal for the Services described herein for the purpose of restricting competition.

F. Contractor agrees that no charges for damages or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services specified in this Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the Contractor to proceed to complete its Services or any part of them after the date to which the time of completion may have been extended shall in no way operate as a waiver on the part of the Owner of any of its rights herein.

G. It is expressly understood and agreed that references herein to "approved by the Owner" or to "approval by the Owner" shall not be interpreted to impose upon the Owner any obligation to observe or correct any failure on the part of Contractor to perform its Services in accordance with the Standard of Care, nor shall such references, or any approval granted in accordance therewith, absolve the Contractor from liability for errors and omissions or otherwise for any failure to so perform its Services.

H. Contractor represents and warrants that its employees and subcontractors' employees (collectively, "Contractor Personnel") are professionally skilled and experienced in providing the Services. Contractor Personnel shall have no less than three years' experience with the specific systems and their role in performing tasks they are assigned to perform. Contractor acknowledges that the Owner is induced to enter into this Agreement by the personal qualifications of the Contractor Personnel and agrees, therefore, that neither this Agreement nor any right or obligation hereunder may be assigned or subcontracted by Contractor, in whole or in part, without the prior written approval of Owner, which shall be in Owner's sole discretion. Contractor represents and warrants to Owner that the Contractor Personnel set forth below (collectively, the "Key Personnel") will be assigned to the Project, and will remain assigned to the Project until Final Completion of the Project.

Key Personnel:

I. If Owner has concerns over Key Personnel or other Contractor Personnel assigned to provide Services (including, but not limited to, the Services provided during the Project) and Owner believes that the problem is capable of being corrected, Owner shall bring such concerns to the attention of Contractor. Contractor shall have a period of seven (7) days following such disclosure to resolve any problems with respect to such person in a manner that is satisfactory to Owner. If Contractor is unable to resolve the problem within such seven (7) day period to Owner's satisfaction, then Contractor shall remove such person and provide a replacement as provided herein. Nothing contained in this Section shall restrict Owner from requiring Contractor to immediately remove Contractor Personnel.

J. Except upon Owner's prior written consent, which consent may be withheld in Owner's sole discretion, Contractor shall not remove from a project or temporarily reassign any Contractor Personnel to another account until such time as such personnel have completed all of their assigned responsibilities under the Project.

K. Contractor shall provide a replacement acceptable to Owner for any removed or reassigned Contractor Personnel (including, but not limited to, Key Personnel) as soon as reasonably possible thereafter, taking into consideration such individual's duties and responsibilities, provided that such replacement shall in no event be provided more than fifteen (15) days following the date on which the applicable replaced individual was removed or reassigned. The replacement personnel shall possess comparable experience and training as the Contractor Personnel to be replaced and the replacement personnel shall work with the replaced Contractor Personnel during a mutually agreed transition period, the duration of which shall be determined based on the duties and responsibilities of the person actually to be replaced, and all costs and expenses associated with educating and training the replacement personnel shall be borne by Contractor. Provided the replaced personnel remain employed by Contractor, such person shall continue to be available by telephone to answer any project-related questions.

L. If there is a Vacancy in a Key Personnel position (a "Vacancy" includes Contractor's failure to provide a replacement within the time frames specified herein), the matter shall be escalated to executives of both parties for resolution. If the executives cannot resolve the matter to the satisfaction of Owner and the Vacancy is still not filled, then Owner shall have the right to withhold fifty percent (50%) of any amounts due or that may become due to Contractor until Contractor proposes and implements a qualified replacement as set forth herein. In addition, a Vacancy in a Key Personnel position shall not be a basis for Contractor to claim any excused failure to meet a deliverable and/or Critical Path Milestone due date.

M. Contractor represents and warrants that Contractor has the right to enter into this Agreement and that performance of the Services described in this Agreement shall not cause Contractor to be in breach of any other agreement entered into by Contractor or by which Contractor is bound.

N. Contractor shall provide assistance in securing all necessary permits required by local, state and federal regulatory agencies to implementation construction, integration and migration phases of the Project to proceed unimpaired. Such assistance may include conferences with and presentations to appropriate regulatory agencies during each phase of the Project including without limitation, the Building Department, Fire Departments, Zoning and other governmental bodies. Contractor shall lead the expedited processing of permits through all governmental entities.

O. Contractor represents and warrants that

- a) No officials or employees of Owner have a material or controlling financial interest in the Contractor's or Contractor's subcontractors' firm(s);
- b) No family members of Owner's employees have a financial interest in or are employed by the Contractor's or Contractor's subcontractors' firm(s); and
- c) No employee of Contractor or its subcontractors is currently employed or has been employed by Owner during the past twenty-four months. Owner's employees may not perform services as outside consultants or contractors while currently employed. In the event Contractor desires to engage any of Owner's employees upon their termination or separation of employment to

perform services in connection with the Project, Contractor shall notify Owner in advance of such engagement. Owner shall have the right to approve such engagement in accordance with the terms of this Agreement.

P. Contractor's relationship to the Owner hereunder shall be that of an independent contractor, and neither Contractor nor any of its employees, agents, or subcontractors shall be considered employees, partners, joint ventures or otherwise affiliated with the Owner or any of its affiliates for any purpose whatsoever. Consistent with its status as an independent contractor, Contractor's employees, agents, and subcontractors shall have no right or authority, expressed or implied, to commit or otherwise obligate the Owner or any of its affiliates to any third party in any manner.

Q. Contractor will not directly or indirectly refer to the Owner or any of its subsidiaries or affiliates in any printed, audio-visual or other advertising or promotional material prepared or distributed by or for Contractor without the Owner's specific advance review and written approval. The provisions of this paragraph shall survive expiration or termination of this Agreement.

Subcontractors:

1.) Contractor, with the prior written consent of the Owner, which consent shall not be unreasonably withheld, shall have the right to retain subcontractors for the performance of any portion of the Contractors Services set forth in this Agreement. Prior to engaging any subcontractor however, the Contractor shall provide the Owner with such information about the subcontractor that the Contractor proposes to engage as may be necessary for the Owner's consent. If Owner requires the Contractor to engage a particular subcontractor with respect to any aspect of the Contractor's Services hereunder, Contractor shall engage such subcontractors. The Owner, within its sole discretion, may require the Contractor to remove, change or substitute any subcontractor retained by the Contractor for this Project. A subcontractor shall not be changed, removed or substituted by the Contractor without the Owner's prior written consent.

2.) The Contractor shall be fully responsible for the timely and proper performance and coordination of Services by its subcontractors and their respective subcontractors' of any tier to the same extent as if all such Services were performed by the Contractor's personnel.

3.) Contractor shall include provisions in its agreements with subcontractors requiring the subcontractors to perform all Services undertaken pursuant to their agreements with the Contractor in the same manner and to the same extent and under the same conditions under which the Contractor is obligated to perform such Services under its agreement with the Owner including, but not limited to, ownership of documents, indemnification, assignment, insurance, dispute resolution and confidentiality/non-disclosure. Nothing contained in this Subparagraph 3 shall be construed as making the subcontractor a beneficiary of any of the rights that the Contractor has against the Owner.

4.) Contractor hereby conditionally assigns to Owner the contracts entered (or to be entered) into with any subcontractors in connection with the Project. Each such contract shall be subject to the approval of Owner and shall provide that each subcontractor consents and agrees to the assignment, subject to the following terms and conditions:

- a) The assignment shall become an effective and present assignment only upon a termination by Owner of this Agreement in accordance with the provisions hereof and only as to those subcontractors which Owner accepts in writing

- b) Owner shall become liable only for the obligations under the applicable subcontractors' agreement which accrue after said date of termination of this Agreement, and
- c) This Paragraph shall serve as the instrument of assignment at such time as the assignment provided for above becomes effective. Unless Owner specifically consents to an assignment as provided herein, no agreement between Contractor and subcontractors shall create an agreement with the subcontractors, nor shall there be a direct legal relationship between Owner and any such subcontractors

5.) All agreements with subcontractors unless mutually agreed otherwise by the Owner and Contractor, shall expressly include the following provision:

Subcontractor agrees that the Owner is an intended third party beneficiary of this subcontractor's agreement.

Notwithstanding the Owner's status as an intended third party beneficiary of this subcontractor's agreement, the Owner has no duties to the subcontractor under the subcontractor's Agreement and the subcontractor has no cause of action or other claim against the Owner arising out of the subcontractor Agreement or the Contractor's failure to perform therein.

General:

A. No extras or credits to Contractor, or any subcontractors, shall be authorized by anyone other than the Owner.

B. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Illinois without regard to conflict of laws principles.

C. Owner reserves the right not to make an award for the Project or to make an award for the entire Project or for only a portion of the Project.

D. Contractor and the Owner will each assign competent representatives within their respective Project teams to coordinate all phases of the Project. Contractor shall ensure that all employees and subcontractors who perform Project services for Owner abide by the terms and conditions of this Agreement. Contractor's employees who perform Project services shall be expected to comply with all fire prevention, security, and safety rules and instructions applicable to the Project site.

E. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Project. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to employees and property.

Contractor shall ensure that all employees and/or sub-contractors who perform services for Owner abide by the terms and conditions of this Agreement. Contractor's Employees who perform work at any Owner facility shall be expected to comply with all reasonable fire prevention, security and safety rules in force at the site of work, and shall comply with all instructions from Owner's security personnel.

F. All notices required or permitted to be given under this Agreement shall be written and shall be deemed received on the date of personal delivery, facsimile transmission or email (with receipt confirmed); one (1) day following mailing if by overnight courier with signatory acceptance (i.e. Federal Express, UPS or Airborne Express); or, if mailed, five (5) days after deposit via United States mail certified or registered mail, postage prepaid or overnight courier. All such notices shall be addressed and sent to

Owner and Contractor identified below. Owner or Contractor may, from time to time, change the address to which notices hereunder shall be sent by giving notice to the other party in the manner provided in this paragraph.

Owner: _____

Attn: _____

Contractor: _____

Attn: _____

G. The waiver by either party of any breach of this Agreement shall not constitute a waiver as to any succeeding breach. All waivers must be in writing.

H. Dispute Resolution: It is the intention of the parties to make a good faith effort to resolve, without resorting to litigation or arbitration, any dispute arising under or related to this Agreement according to the procedures set forth in this Section.

- 1) Internal Dispute Resolution Procedure: Except for (a) a breach or threatened breach of Owner's confidentiality or intellectual property rights and/or (b) a threatened or actual risk to the safety or security of persons or property which, in either case, Owner may seek preliminary and permanent injunctive relief, including specific performance, or other interim or permanent relief, the parties shall first attempt to amicably resolve any other dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute"), Upon written notice of a Dispute by one party to the other, each party shall immediately designate a senior executive with authority to resolve the Dispute. The designated senior executives shall promptly begin discussions in an effort to agree upon a resolution of the Dispute. Notwithstanding the requirements of this Section, Owner may terminate this Agreement in accordance with **Termination of the Agreement** Section of this RFP at any time. The issue of whether such a termination or cancellation is proper shall not be considered a Dispute hereunder.
- 2) Arbitration Required: If the parties are unable to amicably resolve a Dispute within thirty (30) days of a party's written notice, then such Dispute shall be resolved by arbitration in Chicago, Illinois in accordance with the then applicable rules of the American Arbitration Association ("AAA"). All submissions to the arbitrator, the proceedings and the award shall be confidential. The parties express their desire that the arbitration be conducted on an expedited basis with minimal discovery, except that no pre-hearing discovery will be permitted unless specifically authorized by the arbitration panel. The award shall be in writing and set forth the factual and legal bases for the award. The parties renounce recourse to litigation, to the extent provided by law, and intend the award to be final and binding except that judgment with respect to the award may be entered in any court having jurisdiction over the parties or their assets.
- 3) The arbitration will be conducted before a panel of three (3) persons, one (1) chosen by each party and the third selected by the two (2) party selected arbitrators. All reasonable costs of both parties, as determined by the arbitrators, including but not limited to, reasonable

attorneys' fees, costs and disbursements, including the cost of reasonable investigation, preparation and professional or expert consultation, shall be borne entirely by the non-prevailing party (to be designated by the arbitration panel in the award) and may not be allocated between the parties by the arbitration panel.

- 4) The award issued by the arbitration panel may be enforced by any federal or state court of competent jurisdiction with the non-prevailing party being responsible for the reasonable costs of both parties (including, but not limited to reasonable attorneys' fees) incurred to enforce the award.
- 5) Performance During Dispute. Subject to the rights of the parties to terminate this Agreement or suspend their performance as set forth in this Agreement, both parties shall continue to perform their obligations under this Agreement during the pendency of any Dispute or other action involving equitable or interim relief as set forth above. I.

I. Contractor waives all rights to seek an injunction, temporary restraining order and any other relief which would stop or delay Contractor's services hereunder or the progress of the Project.

J. In the event any suit, action or proceeding arising from or based upon this Agreement or Contractor's Services hereunder, shall be instituted between Contractor and Owner, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements, including the cost of reasonable investigation, preparation and professional or expert consultation incurred by reason of such suit, action or proceedings.

K. Whenever Owner, in its reasonable opinion, questions whether or not work performed by Contractor prior to completion of the work conforms to the standards set forth in the Agreement, it may require independent testing and/or inspection of the work involved. If such testing and/or inspection establishes that the work in question does not fulfill the requirements of the Agreement, Contractor shall cause the defect or defects to be corrected, and shall bear the cost thereof as well as all testing, retesting, inspection and re-inspection costs. If such testing or inspection reveals that the work complies with the requirements of the Agreement, Owner shall bear the costs of testing and/or inspection, as well as any other costs incurred by Contractor resulting from work interruption and delay occasioned by such testing and inspection, unless Contractor's completion of such work was initially performed without obtaining the approval or inspection thereof as required in the Contract Documents.

L. Substantial Completion: Prior to Substantial Completion of the work, Contractor shall have the work ready and fully operational for operation by Owner at the time(s) set forth in the schedules included as exhibits to this RFP. The work, or each portion thereof that Owner agrees to accept, shall be deemed substantially completed (hereinafter, "Substantial Completion") when: (a) the work has been completed (other than Punch List items defined below) in accordance with the requirements of the Contract Documents, subject to Owner's written acceptance of such work; (b) Contractor certifies in writing to Owner that the work, or such portion thereof which Owner agrees to accept separately, is substantially completed in accordance with the Agreement, and is fully operational, including all specified features, for the use for which it is intended, and Owner approves the accuracy of such certification in writing, (c) executed unconditional lien waiver and releases for all work completed and paid for by Owner pursuant to this Agreement have been obtained from Contractor and all Sub-contractors (to include all suppliers and material men providing labor or materials to the work) retained by Contractor with respect to the work and are satisfactory to Owner and upon Substantial Completion of the work, or a portion thereof which Owner agrees to accept separately, provided that all other contractual items for establishing Substantial Completion as

determined by Owner have been achieved, Owner will accept responsibility for operation. If the above provision has not been met, Contractor shall be required to continue to maintain all telephone and network systems for the benefit of Owner at no additional cost until the above requirements have been fulfilled, and the start date for warranties shall be delayed until such time. At the point of Owner go-live implementation of each portion of any of the systems or Services herein (network, telephony), Contractor shall create and turn over to Owner, within one week, an electronic copy that is a full system archive of all systems completed to date and prior to go-live shall provide a complete "Implementation Golden Image" from which to restore from a catastrophic event. This "Implementation Golden Image" shall be a complete and validated system backup capable of restoring the entire functioning system, including all configurations accepted at that time.

M. Punch List Work: "Punch List Work" means minor adjustments, repairs or defects in the work as determined by the Owner, their representatives or consultants. Items of incomplete work or items which preclude beneficial use of any portion of the work, or which preclude Owner from full operation, maintenance or security of the work shall not be considered Punch List Work.

N. Substantial Completion Date of the entire work, and any separate portions thereof, shall be adjusted and/or affirmed with each approved Change Order of the Agreement. When the Contractor considers that the work, or a portion thereof which Owner agrees to accept separately, is Substantially Complete, the Contractor shall prepare and submit to the Owner, their representatives and consultants a comprehensive list of items to be corrected. The Contractor shall proceed promptly to correct items on the list. Failure to include an item on the list does not alter the responsibility of the Contractor to complete all work in accordance with the requirements of the Contract Documents. Upon receipt of the Contractor's list Owner will make an inspection to determine whether the work or portion thereof is Substantially Complete. If Owner's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents and the Agreement, the Contractor shall, before issuance of a Certificate of Substantial Completion, complete or correct such item(s), upon notification by Owner. The Contractor shall then submit a request for another inspection by Owner to determine Substantial Completion. When the work or portion thereof is Substantially Complete, Owner will approve Substantial Completion in writing which shall establish the date of Substantial Completion.

O. Reducing Payments: When the additional services of the Owner's Representative or the Owner's other outside consultants are required because of a "deficiency" of the Contractor or any subcontractor, their compensation for such services shall be based upon their reasonable scope and hourly rates included on an invoice sent to the Owner. For the purposes of this item, the term "deficiency" shall include, but not be limited to:

- a) more than two reviews of the same submittal due to incorrect or missing documentation, or
- b) the additional services of the Owner's Representative, and their respective consultants, or the Owner's other outside consultants made necessary by multiple re-inspections of Punch List Work or previously rejected non-conforming work reported by the Contractor to be corrected and/or completed due to the Contractor's failure to diligently prosecute the completion of such work. The Cost incurred by Owner for such additional services shall be the basis of a deductive Change Order.

P. Final Completion: Upon receipt of written notice that the work is ready for final inspection and acceptance and upon a receipt of a Final Application for Payment, in accordance with the requirements of this Agreement Owner will promptly make such inspection, and when Owner finds the work

acceptable under the RFP and associated documents, and the Agreement fully performed in addition to the requirements for Final Payment elsewhere herein, Owner will approve Final Payment.

Q. This Agreement, upon acceptance of Contractor's proposal by the Owner and including the exhibits attached hereto and Owner's purchase order if and when issued, constitutes the complete and exclusive statement of the agreement of the parties relative to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. In the event the terms of this Agreement conflict with the terms under Owner's purchase order or any other document, then the terms of this Agreement shall control and govern and the conflicting terms of such other document shall be deemed superseded and replaced hereby. In no event shall any term contained in the Contractor's proposal that is in any way inconsistent with or supplemental to the terms of this Agreement be deemed a part of this Agreement unless expressly incorporated into this Agreement in a writing signed by the Owner.

R. Time:

- 1) Time of the Essence: Time is of the essence in Contractor's performance of this Agreement. The parties acknowledge that delay is one of the greatest causes of waste and increased expense in any project. Contractor and Owner shall act diligently in performing hereunder in order to comply with all elements of the Project Schedule and shall not delay prosecution.
- 2) Delays: If Owner reasonably determines that Contractor is likely to fail to meet a Critical Path Milestone, or if Contractor has failed to meet a Critical Path Milestone, then in addition to any other rights and remedies available to Owner under this Agreement (including without limitation, the right to terminate this Agreement), at Owner's request, Contractor shall provide to Owner at no cost to Owner as many additional Contractor personnel as may be required or necessary to meet the Critical Path Milestone, or if the Critical Path Milestone has already been missed, to recover the time or to achieve a new date reasonably established by Owner, and in either of such case the parties will meet to revise the Project Workplan. Owner's acceptance of additional personnel as provided herein shall not be construed or implied to constitute a waiver of any of Owner's rights. In addition to the rights specified herein and those otherwise available to Owner, for each day that Contractor fails to timely achieve a Critical Path Milestone, Contractor shall provide Owner with a credit in the amount of \$5,000 until the Critical Path Milestone is achieved. Owner shall have the right to apply such credits as a set off against any amounts due, or to become due to Contractor under the Agreement.
- 3) Notice of Delay. Contractor shall, immediately notify Owner of any delay in:
 - a) the preparation and/or production of any of Contractor's documents hereunder,
 - b) the performance by General Contractor, or (iii) in connection with any matter attended to by Contractor or with which Contractor is familiar (whether or not as the result of an act or omission of another) which would affect or delay the Project Schedule. Contractor shall consult and advise Owner in connection with any such delay and its effect on the schedule and shall take such action on Owner's behalf as Owner may request in accordance with the terms and conditions of this Agreement.

Specific Response Times: Owner may, in its sole discretion, establish reasonable response time standards for Contractor's performance of Services (e.g., review, approval and preparation of Change Orders and field orders, interpretation of RFP document and its exhibits and attachments, and review of requests to substitute materials). Contractor will not exceed established response times unless, at the time of the action which necessitates a response, Contractor indicates that a longer response time is

necessary and gives a written explanation of the reasons why an extended response time will be needed. Any extension of the response time must be approved by Owner. Insufficiency of personnel shall not be an adequate excuse for delay by Contractor or its subcontractor.

S. Force Majeure: If Contractor is delayed in its performance of this Agreement by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, damage to the Project by reason of fire or other casualty or other causes beyond the reasonable control of Contractor (including failure of Owner or General Contractor to respond timely) and not due to the willful or negligent act or omission, financial inability, or default of Contractor, or events reasonably foreseeable to Contractor, then upon Owner's written approval the time for completion under the schedule may be appropriately extended by the number of actual days of delay.

T. The Contractor shall not bring claims or lawsuits against any trustees (individually or collectively) principals, employees, agents, officers, directors, stockholders, partners or affiliates of the Owner. The Contractor further agrees that the sole and exclusive remedy of the Contractor for payment and/or performance of the Agreement shall be against the assets of the Owner.

U. No Partnership/Joint Venture. The Agreement shall not be construed as creating a partnership, agency or joint venture between the Owner and Contractor. The Services will be rendered by Contractor as an independent contractor. Nothing herein shall be construed as establishing a partnership, agency or joint venture between the Owner and Contractor. Contractor shall not:

- a) Represent to others that it is an agent of or has authority to bind the Owner;
- b) Enter into agreements on behalf of the Owner; or
- c) Incur any debt, obligation or liability of any kind in the name of, or for the account of the Owner.

V. Nothing in this Agreement shall be construed to grant Contractor any rights with respect to use of the Owner's name, logo and trademarks except as authorized by the Owner for performance of the Services or as otherwise approved in writing by Owner.

Contractor may publicize its relationship with the Owner only with the prior written approval of the Owner. Contractor may not imply approval or endorsement of its company, its products or its services by reason of this Agreement or Contractor's relationship with the Owner. Contractor may list the Owner as a business reference with the Owner's prior approval.

Confidentiality:

A. For purposes of this Agreement, "Confidential Information" shall include all oral, written, electronic, and all other forms of information, data, or materials disclosed in connection with this Agreement or in contemplation hereof which the Contractor has been advised or should have reason to believe is confidential and/or proprietary to the Owner, including, but not limited to

- a) The business or operations of the Owner, and/or Owner's subsidiaries or affiliates;
- b) Information of a third party which Owner has the right to disclose; (c) information disclosed or produced by Contractor in the course of performing the Services hereunder. Confidential Information shall include such information whether disclosed orally, electronically, or in writing. Confidential Information shall also include computer files, disks, or other electronic media containing such information. Materials may be marked as "Confidential", but such marking is not required.

B. Contractor shall use the Confidential Information only to the extent necessary to provide or perform the Services hereunder, and will not make any other use of the Confidential Information. Contractor shall not disclose, directly or indirectly, in whole or in part, to any third person, firm, or corporation, any Confidential Information, except that Contractor may disclose Confidential Information to its employees and subcontractors on a need-to-know basis; provided, however, that Contractor shall secure such employees and subcontractors commitment to be bound by the nondisclosure obligations of this Agreement.

C. Contractor shall have no obligation concerning any portion of the Confidential Information which:

- a) Was known to it before receipt, directly or indirectly, from the Owner;
- b) Is lawfully obtained, directly or indirectly, by Contractor from a third party that was under no obligation of confidentiality;
- c) Is or becomes publicly available other than as a result of Contractor's violation of this Agreement;
- d) Is required to be disclosed by the Contractor by applicable law or legal process, provided that Contractor gives to Owner prompt written notice and the opportunity, if necessary, to obtain a protective order;
- e) Is developed by the Contractor independent of the Confidential Information received from the Owner.

Warranty Service:

Maintenance and Warranty: A complete maintenance and warranty agreement, as well as quote, must be included as part of the bidder's proposal.

Maintenance:

The Contractor shall include a two years complete service and maintenance agreement with the option for renewal of this contract for additional one-year terms for years three through seven. The start date for all maintenance agreements shall be the date of Final Completion. The maintenance agreement shall cover all necessary labor and material to maintain all system hardware (including firmware upgrades) and software components. For both the initial warranty period and subsequent renewable maintenance period(s), the maintenance plan shall include but not be limited to the following provisions:

- w) 7x24 telephone support coverage 365 days per year through a support center.
- x) Include and clearly state minimum guaranteed discount pricing on products beyond the initial periods stated in the RFP.
- y) Provide pricing for extended maintenance programs beginning at the end of the Initial Warranty period for one-year intervals [including breakdowns of labor rates during normal business and premium (evening, weekend, and holiday) hours] for performing MAC (moves/adds/changes) activities and/or service activities as directed by the Owner.
- z) Provide explicit written documentation of what is covered and excluded under the agreement, which shall be no less than that stated herein.
- aa) Provide explicit definition of the Contractor's maintenance provisions and obligations vs. the manufacturer's.
- bb) Provide a profile including titles and staff levels of the Contractor's maintenance organization, resources, capabilities, and experience with the proposed system, and contact information.
- cc) Guarantee a single point-of-contact during Normal Business Hours.

- dd) State a guaranteed response time(s) (confirmation and/or dispatch) to resolve system failures and alarms.
- ee) Maintain and make available to the Owner a 24/7 written history log of all performed maintenance, system configuration and a MAC activity record.
- ff) Provide a schedule of inspections, performance analyses, tests, preventative maintenance if required, and remote monitoring initiatives to ensure system performance, toll fraud detection and remedy potential faults. Include any or all costs associated with these activities.
- gg) Identify a location and maintain or detail Contractor's access to a full inventory of parts and software as appropriate to support the proposed systems.
- hh) Emergency Service replacement parts, with or without a field engineer, shall be delivered within 2 hours of determining that part replacement is required (24 hours a day, 7 days a week – Monday through Sunday).
- ii) Replacement parts for failures that are not service affecting shall be delivered within 36 hours.
- jj) Provide and install all manufacturer recommended or available hardware (including firmware upgrades) and software upgrades as applicable for the system in place on a mutually agreed upon schedule.
- kk) In the event the Owner requests service during normal business hours and the time required for completing such service and/or repair extends beyond the contractual hourly period of the day, the Owner will have the option to direct Contractor to complete such call the same day or the following day at no additional cost.
- ll) Contractor shall not leave the Owner's site without returning the system to full operation or providing written and verifiable documentation with an acceptable explanation as to why the service call cannot be completed, which will be reviewed with the authorized Owner's representative prior to the technician leaving the Owner's facility.
- mm) Use only new parts and equipment during the two year warranty and maintenance period. In subsequent years three through seven, factory refurbishment of original parts is acceptable provided the refurbished item is factory certified and warranted and provided new parts are not commercially available. Refurbished parts may be used for fulfillment of Emergency Service repair and then replaced as soon as possible with new parts.
- nn) New Parts Supplied by the Contractor: Supply only new parts that are certified by the manufacture and will maintain all current and future warranties and that are consistent with manufacturers' requirements for continuity of support. Refurbished or aftermarket parts that are not certified by the manufacture that may void warranties and support are prohibited from being used.
- oo) System service includes replacement of all parts and/or components and necessary services required to restore normal system operation to pre-failure state and as originally designed and engineered.
- pp) 24x7 Proactive Fault Monitoring through the Contractor's NOC
- qq) Options for on-site response and repair
- rr) Include ability to provide remote and/or on-site support, as required, to meet the following SLAs (Service Level Agreements):

New Voice System:

The new general office VoIP system is expected to service the Owner reliably and efficiently for the xx years or longer. The VoIP PBX and Voice Mail system shall be integrated with the Owner's remote offices to provide a coordinated dialing plan, shared communication trunks.

A matrix defining the Owner's desired voice system functionality (General Office VoIP System Features and Functionality") and a proposed system diagram (New Office Voice Services") are attached to this RFP.

The "Owner" requires that all of the existing Avaya IP phones be re-used and maintain the full features and functionality in place today.

Therefore Avaya is the only voice system manufacturer acceptable solution to be proposed in response to this RFP.

The proposed voice system shall meet or exceed the following requirements:

- a) Manufacturer's most current State-of-the-art VoIP communications, server, gateway and messaging server that satisfy current requirements and support future requirements as outlined in "Exhibit xx- General Office Voice System Features and Functionality Matrix", and "Exhibit xx – Voice System Capacity and Unit Pricing Form".
- b) Be expandable and upgradable without a "forklift" upgrade of existing products
- c) Provide a seamless switchover to a redundant 2nd call manager without in progress calls being interrupted.
- d) Utilize the Owner's data network and backup system to perform system data archives and restores.
- e) Include the manufacturers' most current stable software available at the time of the system turnover, as described earlier.
- f) Comply with Industry standards, CCITT (ISDN), CTI, NADP, H.323, SIP, Equal Access and IP Telephony.
- g) Have integrated management tools to administer the PBX and Voicemail system
- h) Accommodate growth of at least 10% without adding any new products including, but not limited to software or licenses, but excluding handsets.
- i) Provide integration with the Owner's computer system to enhance call handling and messaging (presence awareness, email, PC dialing, caller display, voice messaging, fax).
- j) Provide cost controls by defining future upgrade path and options to maintain voice system for the full desired service life.
- k) Provide capability to support ongoing disaster recovery and business continuity planning.
- l) Be compliant with the requirements of the Americans with Disabilities Act.
- m) Be compliant with local and state E911 requirements and include full implementation of those requirements.
- n) Be capable of supporting and seamlessly integrating the voice requirements of the audiovisual systems including, but not limited to, compatibility with integrating future audio conferencing functionality.

Disaster Recovery:

The Contractor shall define and document in full detail the most reasonable way the Owner can recover from a catastrophic failure of part or all of the voice system (e.g., Disaster recovery mode and remotely rerouting calls).

Redundancy:

The Owner requires a system with redundant call processors (Active- Active), power supplies and routing products. The Contractor shall define their base functionality included in the proposal as well as additional costs, levels or forms of redundancy available.

E911:

The Contractor shall identify and integrate the new VoIP system with the Owner's existing E911 system (AT&T's 9-1-1 locator ID Service). The new VoIP system shall be compliant with local, State and Federal E911 code requirements and shall provide the Public Safety Answering Point (PSAP) correct location information for IP phones moved from location to location. The new VoIP system is required to identify the onsite device location of all VoIP devices based on the MAC address of the connected switch port.

Overhead/Paging System:

The Contractor shall identify and integrate the new VoIP system with the Owner's existing Valcom paging units in use around the city.

Software Support:

The Contractor shall describe the software release process, availability, release schedule and typical cost associated with subsequent software releases (in addition to those upgrades included in the base Not to Exceed Fee). The Contractor shall identify any specific constraints, terms or conditions associated with the current and future use of voice system software including hardware enhancements typically required in software upgrades.. The Contractor shall propose software protection initiatives to keep the Owner's systems current with manufacturer software releases.

Security:

Contractor shall define and document in detail the security controls the voice system includes to protect the Owner from compromises to system integrity, viruses and unauthorized usage. The security coverage should include, but not be limited to:

- a) System access controls
- b) Application controls
- c) Operating systems
- d) IP-enabled PBX solutions
- e) Unified messaging solutions

The Contractor shall clearly define and delineate security options that are part of the base pricing proposal and what parts/features the Contractor considers optional as alternates on the bid form.

System Administration:

The voice system administration shall utilize a user friendly remotely accessible platform to afford the system administrator ease of use in performing management and evaluation tasks. A proven system management capability shall be provided for the proposed system. The administration system shall include, but not be limited to, the items listed below:

- a) Moves, adds and changes to station users
- b) Monitor system performance
- c) Electronic directory

- d) Statistical information on utilization and traffic management
- e) Diagnostic techniques
- f) System configuration

Maintenance Features:

Remote alarm indication transmitted to both the Owner’s NOC monitoring systems and to a remote 24x7 monitored Contractor provided maintenance center indicating the status of a major or minor alarm in real-time is required. The alarm indication will activate at the system site (both audible and visual) as determined by the Owner. The alarm indication will serve the telecommunications system, voicemail and other peripherals associated with the proposed system. In the event of an alarm, the system will have the capability of notifying designated Owner personnel via email. If the Owner does not respond within 15 minutes, the system will send a notification via email and page or text message.

Network Assessment:

The Contractor shall review the Owner’s proposed data network solution and provide voice system network requirements. The Contractor will coordinate the installation and implementation of the voice system.

Signature:

Date

Signature of Vendor’s Representative

Printed Name and Title

Vendor Firm Name

Vendor Mailing Address

Vendor City/State/Zip

Vendor Telephone

